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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
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8 AARON JOSEPH CUNNINGHAM ,
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10 Plaintiff,

11 v.
12 DEA OFFICER JOHN DOES 1 and 2,
13

14 Defendants.

15 NO: 4:17-CV-05045-SMJ
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17 **ORDER DENYING SECOND
18 MOTION FOR SUMMARY
19 JUDGMENT**

20 BEFORE THE COURT without oral argument is Plaintiff's Second Motion
21 for Summary Judgment, ECF No. 18. Plaintiff is proceeding *pro se* and *in forma
pauperis*. Defendants have not been served in this action and are not required to
22 file an answer to Plaintiff's complaint or to respond to his motions.

23 By separate Order the Court has found Plaintiff's First Amended Complaint
24 is insufficient to state a claim upon which relief may be granted. Apart from his
25 conclusory assertions of Fourth and Fourteenth Amendment violations, Plaintiff
26 failed to present facts stating a plausible claim for relief. *See Ashcroft v. Iqbal*, 556
27 U.S. 662, 679 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

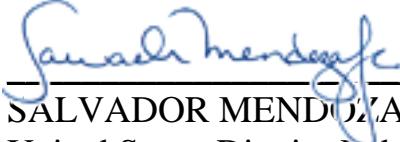
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30 **ORDER DENYING SECOND MOTION FOR SUMMARY JUDGMENT -- 1**

1 The Court has granted Plaintiff a second opportunity to amend or
2 voluntarily dismiss. Plaintiff is advised that the Court will not conduct discovery.
3 Rules 26 through 37 of the Federal Rules of Civil Procedure govern the procedures
4 for obtaining discovery material. Plaintiff should pay particular attention to Fed.
5 R. Civ. P. 26. Discovery materials, including interrogatories, should **NOT** be filed
6 with the Court. LR 33.1(a), Local Rules for the Eastern District of Washington.

7 Once again, Plaintiff's Motion for Summary Judgment is premature.
8 Accordingly, for the reasons set forth above and in the Court's prior Orders,
9 Plaintiff's Motion, **ECF No. 18**, is **DENIED**.

10 **IT IS SO ORDERED.** The Clerk of Court is **DIRECTED** to enter this
11 Order and forward a copy to Plaintiff.

12 **DATED** this 26th day of September 2017.

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15 SALVADOR MENDOZA, JR.
16 United States District Judge
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